Previous references. 1894-5
190
(Forest.)

File No. 30-92

Serial Nos. 1—1

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—10

Major **Part B. for** May 96.

SUBJECT:

Thimmiah's appeal against the Khedda Seepdt.

1 From, the Asst Govt Advocate. D. no 885 / 84
L. no 146 dt 15.1.95
Submits docket no 201 dt 28th Ultimo of the Khedda Seepdt for instructions.

2 To, the D. G of Forests. the Asst Govt Advocate's L no 11348-9 / 3622 dt 22.1.95.
Requests to submit a full report of the above case.

G. R. S. 58 3 From, the D. G of Forests. D. no 15021 / 1438
L. no 3614 / 288 dt 7.5.95. Submits 4 copy of Khedda Seepdt's letter and a Statt giving full

Particulars of the second appeal case.

To, the D. G. of Forests. No. 20551
Dt 11. 5. 95. R2927

Requests to forward a copy of the judgement of the Chief Court.

From, the D. G. of Forests. D. No. 190/9
L. No 30/4 Dt 8. 7. 95.

Forwards for final orders as to costs of defence, Copy of judgement passed by the Chief Court.

To, the G. G. of Forests. No. 1251/64
Dt 26. 7. 95.

Requests to report on certain points, and to forward a copy of the Chief Court decree.

From, the Conservator.
D. No 620-7/477 L. No C156 Dt 13. 2. 96.

Forwards copy of Khedda Serpeti's No. 135 Dt 6th Feb 96 with enclosures including Chief Court decree

To, the Conservator,
the Comptroller
No 7 606-7/505 Dt 24. 2. 96.

Sanctions the bill for Rs 1452-3-11.
requests the Conservator to furnish some information re the payment of the balance.

From, the Conservator. D. No 8171/652
L. No 3654/343 Dt 1. 5. 96.

Furnishes the above requested information

Submitted

Second Appeal No: 37 of 1894 [illegible]
on the file of the Chief Court

Tsin maija - Applt: (Plff:
vs
Mr K. Shamlingan } Respt: (Dft
Supt. of Kheddas }

District Judge's decree - Reversi
and Plaintiff's decree restore
with Costs throughout

A Copy of the Judgt: received
with the Forest Inspector
Sen's No: 30 of 8th July
1895 is put up

The Inspector Gen'
solicits final orders
Govt: as to Costs of
defence

The actual amount
Due in accordance
[illegible]

Chief Court Decree
is not known -
A copy of the decree
has not been sent
here
Submitted for orders

23/7/95

The proceedings
not quite in accordance
with rules as to
the costs payable
& the Act as to those
remained by the Judge
& which require
adjustment - call
for information
as these points to be taken
with a copy of
the Chief Court decree

24-7-95

Draft Submitted
25/7

Urgent

(General Serial No. 30.)

Urgent

189 1891

From The Assistant Govt Advocate in Mysore

FILE No. 30-K4-5

SERIAL No.

To The Chief Secretary to the Dewan of Mysore.

Dated 15th January 1895

Despatched

Received

Enclosures No. 2

General No. 146

No.

Submitted for orders
There are no previous
papers in the office
Full details may be
called for o the ass. adv.
Govt. Advocate requests
to move the Court for
adjournment.

R 16/1

Submitted for orders 16/1/95

Making some enquiries
I am informally told that
the suit was for Rs 600 on
account of Mr Stalks withheld
& that the award made in
the Mysore Court was slightly reduced
in the final Appellate Court.

vide Despatch 4 of 95
Govt Advocate

vide last order thereon

16/1/95

Submitting an Enquiry
Docket No 20 of 95 28th Cells
from the Superintendent
of Chedduk for
instructions and Commissi
ion as 2nd Appeal to be
heard on the 23rd Instant
before the Chief Court.

R 16/1/95

Submitted for orders

16/1/95

Urgent

No. 146

Enc. No. 2

Asstt Govt. Advocate's Office
Bangalore 15th January 1895

(1)

From

The Assistant Govt. Advocate
in Mysore

To

The Chief Secretary to the
Govt of Mysore.

Sir,

I have the honor to enclose herewith docket. No. 201, dated 28th Ultimo with its enclosure from the Superintendent of Kheddah and request that instructions may be issued to me at an early date as the Second Appeal referred to therein stands posted to the 23rd Instant for hearing before the Chief Court

I have the honor to be
Your most obedient Servt.

Asstt Govt. Advocate

1894/95 Regd No 270
3

Genl. Serial No. 28.]

Encl. to No. 1894

From The Superintendent
Khooshalia, Impost.

To The Asst Advocate
to the Govt of Impose.

Dated 28th December 1894

Despatched

Received

General No.
No. 201 } 1894

Enclosures—Number One.

I Has the honor
to enclose herein a
Notice received from
the Chief Court and
to request that he
will be good enough
to show the Case and

ಅಪ್ಪೀಲ್-ಕೇಳಲಿಕ್ಕೆ (ಹಿಯರಿಂಗ್ ಬಗ್ಗೆ) ಗೊತ್ತಾದ ತಾರೀಖನ್ನು 'ಅಪ್ಪೀಲ್ ಪ್ರತಿವಾದಿಗೆನೋಟೀಸ್ ಕೊಡೋಣ.
ಶಿ॥ ಪ್ರೊ॥ ಕೋಡ್ 553ನೇ ಸೆಕ್ಷನ್.
ನಮೂನೆ ನಂ. 45 ಸಿವಿಲ್

ಕೋರ್ಟು

ಸೆಕ್ಷನ್ ನೇ ಇಸವಿ ನಂಬರು

ಅಪ್ಪೀಲ್ ಮಾದಿ

ಅಪ್ಪೀಲ್ ಪ್ರತಿವಾದಿ

ಕೋರ್ಟಿನ ನೇ ಇಸವಿ ತಿಂಗಳು

ತಾರೀಖಿನ ಮೇಲೆ ಅಪ್ಪೀಲ್

ಅಪ್ಪೀಲ್ ಪ್ರತಿವಾದಿಯಾದ

ಈ ವ್ಯಾಜ್ಯದಲ್ಲಿ ಡಿಕ್ರಿಯು ಮಿ

ಈ ಕೋರ್ಟಿನಲ್ಲಿ ನಾದ ಅಪ್ಪೀಲ್ ತರಲ್ಪಟ್ಟು ವೆರಜೆಸ್ಟರ್ ಮೊಡಲ್ಪಟ್ಟು ಯಿದೆ. ಈ ಅಪ್ಪೀಲನ್ನು ಕೇಳುವದಕ್ಕೋಸ್ಕರ (ಹಿಯರಿಂಗ್‌ಬಗ್ಗೆ) ಈ ಕೋರ್ಟಿನಿಂದ ನೇ ಇಸವಿ ತಿಂಗಳು ನೇ ತಾರೀಖು ವಾರ್ ಗೊತ್ತು ಮಾಡಲ್ಪಟ್ಟು ಇದೆಯೆಂದು ತಿಳಿಯತಕ್ಕದ್ದು ನೀವಾಗಲಿ ನಿವ ಪ್ಲೀಡರಾಗಲಿ ಈ ಅಪ್ಪೀಲಿನಲ್ಲಿ ನಿಮಗಾಗಿ ವರ್ತಿಸಲಿಕ್ಕೆ ಕಾನೂನಿನ ಪ್ರಕಾರ ಅಧಿಕಾರ ಹೊಂದಿ ಯಾರಾಗಲಿ ನಿವ್ಮ ಪಕ್ಷವಾಗಿ ಹಾಜರಾಗದ ಹೋದರೆ ನಿಮ್ಮ ಗೈರಹಾಜರಿನಲ್ಲಿ ವಿಚಾರಣೆ ಮಾಡಿ ಪಕ್ಷವಾಗಿ ಫೈಸಲಾಧೀತು.

ನೇ ಇಸನಿ ತಿಂಗಳು ನೇ ತಾರೀಖಿನ ಕೋರ್ಟಿನ ಮೊಹರ್‌ನಿಂ ನಮ್ಮ ದಸ್ತಖತ್ತೊಡನೆ ಕೊಡೋಣಾಗಿಧ.

ಈ ನೋಟೀಸ್ ನಿವ್ಮಮೇಲೆ ಜಾರಿಯಾದ ನೇ ದಿವಸಗಳೊಳಗಾಗಿ ನಿಮ್ಮ ತರಫ್ ತರ್ಜಿವ ಯಾಗಬೇಕಾಧ ನ್ಯೆವಜ್ ಗಳ ಲೀಪ್ಟ್ ಹಾಜರ್ಮಾಡಬೇಕು.

COURT OF

Central Jail Press, Bangalore.—457-92.—5,102.

No 1 dated 22/1/95
J622

Read.

Letter No. 146 of 15 instant. from the Assistant Government Advocate, submitting in original, for instructions, Docket No. 20 dated 28th ultimo from the Khadda Superintendent in which the Khadda Supdt. requests the Assistant Govt. Advocate "to study the case and appear in the Chief Court on the date of hearing on behalf of the (the Khadda Depts" in Second Appeal case Thammaiya ~~vs~~ Shamangar posted in the Chief Court for the 23rd instant

Order. No 11348-9
J622

The papers read above do not Explain and there is otherwise no official information before Govt.

to enable it to understan
the nature of the Civil La
in Second Appeal before
the Chief Court. The Inspe
-tor General of Forests wil
therefore be requested to
submit a full report o
the case and of the manm
in which, and at whose
cost and under what sanc
-tions the case was conducte
in the Original and first
Appellate Courts.

2. Subject to such final orders as may be passed on the ~~spot~~ report above called for, the Assistant Govt. Advocate will be instructed to appear in the case as desired by the Khedda Department.

Chf Secy.

To.

The Inspector General of
Forests & Plantations

The Superintendent
Elephant Kheddas

The Asst to Govt. Advocate in Court

Telegram Mem Despatched

Gen. Serial No. 30.]

9

1895 — 15021

J 14438

From

SECTION J & K The Inspector-General of Forests and Plantations in Mysore. (3)

FILE No. 30-9/4-5

To General

SER'AL No. 3 The ~~Chief~~ Secretary to the Government of ~~Dewan~~ Mysore.

Dated
Despatched
Received
} 7th May 1895.

Enclosures No. 5

General No. 3614.
No. 283

~~In reply to~~ Government Proceedings No 11348—9 / J. 622 dated 22nd January 189

SUBJECT.

Submits copy of Kheddah Superintendents letter and a statement giving full particulars of the second appeal Case (Thammaya ~~H/S~~ shanbogar) posted in the Chief Court.

References—(to be entered only in the Dewan's Office).

Recd. 9/5

Office of the Inspector General of Forests and Plantations in Mysore

No 3614 & 5 / 283

Bangalore, dated 7th May 189

From. The Inspector General of Forests and Plantations in Mysore

To. The General Secretary to the Government of Mysore.

Sir,

With reference to Government Proceedings No 11348-9 / 9.622 dated the 22nd January last, calling for a full report of the second appeal case (Thammiaya ~~Vs~~ Shamiengar) posted in the Chief Court, I have the honor to submit Copy of Kheddah Superintendents letter No 141 dated the 4th March, as well as State-ment received with his docket No 96, dated 28th November 1894, wherein full particulars of the Case will be found.

2. Regarding the entry of Rs 378-11-4 in Column 5 of the Statement as balance due to the Contractor and paid into the Munsiffs Court, the Superintendent subsequently informs that the same ought to be Rs 376-5-4, and that the amount of the decree

decree awarded in the first appellate Court as in Column 12 includes this amount plus moiety of Rs 22-7-5 which the Lower Court allowed as interest. The cost of the defence of the Suit in the original and first appellate Courts have amounted to Rs 118-14-0 the details whereof are furnished in the enclosed original accounts (to be obligingly returned when no longer required) received with the Kheddah Superintendents No 154, dated the 12th March. As against the above costs the appellate Court has allowed only Rs 89-6-6

118-14-0
89-6-6
29-7-6

I have the honor to be
Sir
your most obedient Servant,
J Nisbett
Inspector General of Forests.

No 20551
R 2927 D 11/5/95

(4)

SECTION Fin
FILE NO. 30-84-5 Fin Insp: Gen & Trust
SER'AL. No. 4

Sir,

In acknowledging the receipt of your letter No 3614/283 of the 7th inst. sub. mitting a copy of the Khedivial Supo & other furnishing the information called for in ~~this~~ Govt Proc. No 11348/9622 of the 22nd Jan last, regarding the circumstances under which a Suit was brought by one T Hammaya against the Khedivial Supot and stating that no report of its institution was made & sanction obtained prior to entering the Supo's defence, I am directed to request you to be so good as to forward a copy of the Judgment of the Civil Court, on receipt of which final orders as to costs of defence will be passed

I have &c

13/5
D. 10/5

11/5/95
Secl Isa

Gen. 30.]

13

REVENUE DEPARTMENT
5 Gl. No. 190
No. 7.9
10 JUL. 95
DEWAN'S OFFICE.

From

The Inspector General of Forests and Plantations in Mysore. (5)

SECTION Jpl.

FILE No. 20-(84-5) Revenue

SERIAL No. 5 *The ~~General~~ Secretary to the Government of Mysore.*

Kar.
Ref
No. 1872/95

Slip Subd
1 3/7/

Dated

Despatched 8th July 1895.

Received

General No. 30
No. 4.

Enclosure No. 1

General Secretary's No. 2057 R.2957
~~In reply to~~ dated 13th May 1895.

SUBJECT.

Forwards for final orders of Government as to costs of defence. copy of Judgment passed by the Chief Court in the case Linmiya ~~vs~~ Mr. H. Shamiengar, Superintendent of Kheddahs.

References (to be entered only in the Dewan's Office.)

No. 30/4
Enclosure

OFFICE OF THE INSPECTOR GENERAL OF FORESTS AND PLANTATIONS IN MYSORE,

Dated Bangalore, 8th July 1895

From

THE INSPECTOR GENERAL OF FORESTS
AND PLANTATIONS IN MYSORE.

To

THE ~~GENERAL~~ Revenue SECRETARY TO THE
GOVERNMENT OF MYSORE.

SIR,

In compliance with the General Secretary's letter No. 20551/R2927, dated the 13th May last, I have the honor to forward a copy of the Judgment of the Chief Court in Second appeal Case No. 37 of 1894-95, (Linmaya ~~vs~~ Mr. Shanmugam) received with the Assistant Government advocate's No. 240 of the 27th ultimo, and to request that you will be so good as to communicate final orders of Government as to costs of defence in the above suit.

I have the honor to be,
Sir,
Your most obedient Servant,

Illegible
Inspector General of Forests.

E. A. Selected 515

In the Chief Court of Mysore at Bangalore

Monday the 17th day of June 1895.

Present

Raja Dharma Pravina T. R. A. Thumboo Chetty Esquire Chief Judge

and

A. Ramachandra Iyer Esquire, judge.

Second appeal No. 37 of 1894-95.

Thimmaiyah — Appellant (Plff)

vs

Ms. K. Shama Iyengar Respondent (Defts)

Second appeal against the decree of the District-judge of Mysore in Appeal No. 49 of 1894, modifying the decree of the Court of the Munsiff, of Mysore, in Original Suit No. 129 of 1892.

Judgment

On 18th September 1892 the Plaintiff undertook to supply daily 5000 bundles of chalum to the Defendant; and on the same day, two other persons Nanmantha and Posttanna agreed to supply a certain quantity of Jondu grass.

The Defendant received for a few days the bundles of cholum supplied by the Plaintiff and the grass supplied by the other Contractors. He then directed the Plaintiff to supply jowdar instead of cholum and cancelled the Contract he had made with the other Contractors. The Plaintiffs case was that he was promised Rs 1-14-0 for a Cart load of jowdar and the Defendants case was that the price was fixed at Rupees 1-8-0

The Defendant did not personally enter into an agreement with Plaintiff. His Gumadar arranged everything and verbally reported to him. He forgot all about it as may be gathered from Exhibit B. which was a petition presented on 25th September 1892 by Hanumanthiah and Puttiah, complaining of the arbitrary cancelment of their Contract. He called for a report and wished to know who was supplying grass. He admitted that there was no record to show the price which had been agreed to be paid to the Plaintiff. If he was unable to recall the facts to his mind within a week after the Contract had been made and if there was no record of the matter in his office it

it is obvious that his evidence is not entitled to any weight.

Defendant's 1st witness Dossoomaya is the man who made the Contract. He said that as the Plaintiff offered to supply grass at Rupees 1-8-0 a cart-load he cancelled the contract he had made with Hanumanthu, that he reported this to the Defendant and that he was not sure whether the Plaintiff was then present The Head Duffedar deposed that, as the Plaintiff wished to supply both Jhond and cholum, the Contract for the supply of johndu was given to him

The Plaintiff offered to supply Jhondu at Rs 2 before the Defendant enter into a Contract with Hanumanthu. The price which was agreed to be paid to the latter was Rs 1-14-0, a cart load; and it does not seem likely that the Plaintiff offered to supply at Rs 1-8-0 only.

The Defendant did not receive the full quantity of cholum which he had agreed to receive from the Plaintiff. The case of the latter was, that within a week the jemadar perceived that the elephants did not relish cholum, and that inste

of buying a large quantity of cholum which was of no use. he preferred to Cancell the Contract he had made with Ramanatha and to direct the Plaintiff to Supply jondra instead of cholum at Rs 1-14-0 a Cart load. This Seems a true explanation. The Defendants evidence that the Plaintiff wished to Supply cholum and jondra cannot be true, because the Plaintiff did not Supply more than 36000 bundles or less than eight days' Supply. The jemadar gave no Explanation at all for not performing the first Contract he had made with the Plaintiff. We reverse the District judges decree and restore that of the Munsiff with costs throughout.

We have already found that the Defendant had no personal knowledge. He relied upon the Statement made to him by his Subordinates who are foreigners and who probably did not understand the Plaintiff and misled the Defendant. The confusion would have been avoided if there was a written Contract in substitution of the first agreement

agreement. Although the Defendant's conduct may not be blame worthy, we see no reason for not awarding Plaintiff costs.

/Signed/ T. R. A. Thumboo Chetty
Chief judge.

/Signed/ A. Rama Chandra Iyer
judge.

Compd.
H.L.

Copy

Assistant Govt. Advocate

Draft as per D/2

(6)

To,
The Insp. Genl. of Forests.

SECTION Fy No. 1251
FILE NO. 30-34 Fy 64 & 26.7.95
SERIAL NO. 6 Lr

With reference to your letter No. 30/34 dated the 8th July 1895, submitting ~~a food final orders as to costs of defence~~, copy of the judgment passed by the Chief Court in the case Tmanya ~~Vs~~ Inv. K. Shanmugam, Supdt. & Selection final order as to the costs of defence of Kheddas, I have the honor to state that the judgment does not give any information either as to the costs payable

to the plaintiff or as to those

incurred by the defendant

and which require adjustment,—

I am therefore

and to request that you

will be good enough to report on these points, forwa
-rd at the same time a

~~forward the above together~~

~~with~~ a copy of the Chief

Court decree for the

information of Govt.

I have &c

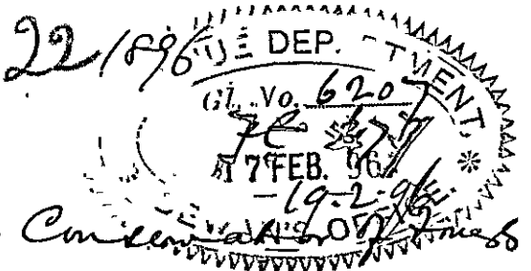
26-7-95

Rev: Secy.

M

25/7/95

22/1896



From
The Commissioner of Mysore

(8)

SECTION Jud
FILE No. 30-9 The Secretary to Govern
of Mysore
SERIAL No. 7 Genl: + Rev: depts.

Camp Maddagiri
13th February 1896

No C.156 on 5

In reply to Rev: Secty's. No 1257/26.6
of 26.7-95 and subsequent
reminder

Forwards Copy of Kheddah
Superintendent's No 135 of
6th Febry '96 with enclosures
including Chief Court decree
in the Case of Thimmayya vs Mrs K.
Shamianyar, Kheddah Supt.

Khedda Supts includes
the Court costs awarded
by the Chief Court
Rs 1312-15-11 the sum of
due to the Plaintiff having
been paid, the sum required
adjustment is Rs 139-4-0
minus Rs 3-9-11 being the
balance on hand with
Mr. Advocate Rangaiengar.
The Kheddah Supt may be
requested to adjust the
amount as early as practicable.

Submitted for orders

BB
20/2/96

Let Mr Cameron
write a draft
24-2-96

Rev dept
17.2.96
Rev JC
BB
17/2/96

Submitted for
orders. The Memo
submitted by the

GT

23
No C156. En 5

Office of the Conservator of Forests
in Mysore.

GOVERNMENT MYSORE

Dated, Camp Maddapiri, 13th Feby: 1896

From

The Conservator of Forests
in Mysore

To

The Secretary to the Government
of Mysore,
General and Revenue Depts.

Sir,

With reference to the correspondence
ending with the Revenue Secretary's Reminder
No 4676/FC. 301 dated 14th November last, I have
the honor to forward copy of Kheddah
Superintendent's letter No 135 dated 6th
Instant, with its enclosures in original
including copy of the Chief Court decree
in the case of Thimmayya vs Hr K. Sha.
Niengar, Kheddah Superintendent.

I have the honor to be,
Sir
Your most obedient servant
H Smith Walker Colnel
Conservator of Forests

Gen. 31.]

GOVERNMENT OF MYSORE 1896

From The Superintendent of Kheddahs Mysore.

To The Conservator of Forests in Mysore.

Dated 6th February 1896 Camp Mastigudy

Despatched

Received

General No. 135
No.

Enclosure No. 4

Sir,

In reply to your letters noted on the margin, I have the honor to enclose a list showing the particulars of Rs 67-7-5 being the cost incurred by me in the Lower Court. Another list is also enclosed showing the particulars of the whole cost from the beginning

2. The copy of the Judgment of the Chief Court has not

x 1. Inspr Genl's No 692 of 12-9-95
1. Do No 1652 of 23-11-95
5-2
1 Conservator's No 2379 of 23-12-96
80

been obtained in this Office and so it may be obtained there. The original decree of the Chief Court received with your Lr. No. 692/44 dated 12th September are herewith returned.

D Lamerte
for K. Shamiengan
Supto. of Police

Copy

Hamphrey Walker Colonel
Conservator of Forests

648 A detailed account showing the advance received from the office of Superintendent of Kheddas to defend Thiruviah's suit in original and Appellate Courts and spent by this office towards the same

Date on which money was received	From whom money was received	Amount		Date on which money was spent	What for spent	Amount			Remarks
18.3.93	From the Superintendent of Kheddahs	15	-	18.3.93	Stamp given to power	-	8	-	
				7.4.93	Process	-	8	-	
					Batta	-	8	-	
				1.7.93	Process	-	8	-	
				1.7.93	Batta	1	8	-	
				1.8.93	Process	-	8	-	
					Batta	2	-	-	
				23.8.93	Process	-	8	-	
					Batta	2	-	-	
				23.9.93	Batta	2	-	-	
				29.9.93	Do	2	-	-	
				2.10.93	Process	-	8	-	
					Batta	2	-	-	
8.11.93	Do	2	8	8.11.93	Process	-	8	-	
					Batta	2	-	-	
				4.1.94	Copying fee and stamp	4	7	8	
18.1.94	Do	30	-	18.1.94	Stamp on appeal memo.	16	8	-	
					Power's stamp	-	8	-	
					Process stamp	1	-	-	
				18.9.94	Copy application stamp	-	2	-	
					Copying fee Original decree	-	9	6	
					Copying fee	2	10	11	
					Postage etc	-	8	-	
	Total Rs	47	8		Total Rs	43	14	-	
					Balance in hand	3	9	11	

4th December 1894.

(Signed) M. C. Rangiengar
Advocate.

"Copy
K. Rangiengar
Superintendent of Kheddahs

Mysore Khedah Department. 67

GOVERNMENT OF MYSORE

List showing the Amount of Court Costs for the Khedah Department, as mentioned in the Decrees of Munsiffs and District Judges Courts of Mysore.

Particulars	Amount			Total			Remarks.
As per Decree No 129 of 1893 of the Mysore Munsiff's Court;—							
Power of Attorney	"	8	"				
Proceedes	3	"	"				
Witnesses' Batta	"	12	"				
Advocates fee	30	5	3				
				34	9	3	
As per Decree in the Appeal Case No 49 of 1894 of the District Judges Court, Mysore Court fee on Memo of appeal	16	8	"				
Power of Attorney	"	8	"				
Proceedes	1	"	"				
Copies of Decree and Judgement	1	8	"				
Advocates fee	10	8	6				
Fees for Copying or Translating	2	13	8				
				32	14	2	
Total Rupees-				67	7	5	

Camp Kuttigudi
5th " February 1896

K Shamiengar
Superintendent of Khedah
Mysore.

Decree of Appellate Court.

Section 579 C. P. C. Form No. 48, Civil.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Present,

28

Rajah Dharma Pravina. J. R. A. Thumboo chetty Esquire Judge

&

A. Ramachandrier Esquire Judge

Second Appeal No. 37 of 1894—95.

Cancelled 1897

Thimmaiyah *Appellant.* { *Vs.* } Mr K Shama Iyengar *Respondent*

Appeal from the decree of the Court of the District judge of Mysore dated the 13th day of — August — 1894.

MEMORANDUM OF APPEAL.

Thimmaiyah ——— *Plaintiff.*

Vs.

Mr K Shama Iyengar — *Defendent.*

APPELLANT Thimmaiyah

above named appeals to the Chief Court of Mysore against the decree of the District judge of Mysore in Appeal No. 49 of 1894—95 dated the 13th day of August 1894; for the follwing reasons, namely :—

1. That the learned District judge erred in holding that the Plaintiff agreed to sell Gandee grass at Rs. 1-8-0 per cart-load whereas the plaintiff has clearly proved that the rate agreed upon was Rs 4-0-0

That the learned District judge erred in holding that the telegram Ex No 1 was legally admissible in evidence in the case and in relying upon the same

3. That the decision is against the weight of evidence and probabilities of the case

On the passing of Judgment in this Appeal in the presence of

Mr. Narayan Rao ——— Advocate for the Appellant, and

Mr. Ramasawmier ——— Advocate for the Respondent

It is ordered and decreed that the decree of the District Judge of Mysore be and the same is hereby reversed and that of the Munsiff of Mysore restored

Mr K Shama Iyengar And it is further ordered and decreed that the Defendant aforesaid do pay to the Plaintiff Thimmiyah ——— aforesaid the sum of Rupees. 56-8-8 being the amount of costs incurred by the Plaintiff aforesaid in this Court with interest thereon at 6 per cent per annum from this date until the date of realization.

And it is further ordered and decreed that the Defendant ——— aforesaid do pay to the Plaintiff ——— aforesaid the sum of Rupees 95-6-11 being the amount of costs incurred in the lower ——— courts with interest thereon at 6 per cent per annum from the date of the decree of the said lower ——— ——— court to the date of realization.

Given under our hand and the seal of the Court this

17th day of June 1895.

Sd/ T. R. A. Thumboo Chetty
Chief Judge

Sd/ A. Ramachandrie
Judge

MEMORANDUM OF COSTS INCURRED IN THIS APPEAL.

	By the Appellant. (Plff)			By the Respondent. (Deft)		
	Rs.	A.	P.	Rs.	A.	P.
Costs incurred in the original court	81	7	7	34	9	3
" " Lower appellate "	13	5	4	32	14	2
Total Rs	95	13	11	67	7	5
Court Fee on Memo of Appeal	15	-	-	-	-	-
Power of Attorney	2	-	-	2	-	-
" Processes	1	-	-	-	-	-
" Copies of Decree and Judgment ...	3	-	-	-	-	-
Advocate's Fee	16	-	-	16	-	-
Costs of adjournment	-	-	-	-	-	-
Fees for copying or translating	4	14	9	-	-	-
Printing charge	14	10	-	-	-	-
Costs on Remand	-	-	-	-	-	-
Total Rs.....	56	9	8	19	-	-

(Signed) T. Rt Thumboo Chetty
Chief Judge

(Signed) A. Ramachandriah
Judge

(sgd) S. Narayana Rao
Advocate for Appellant.

(sgd) S. Ramaswamy Iyer
Advocate for Respondent.

Copy
Assistant Govt Advocate

Central Jail Press, Bangalore.—8-1-95—1,002.

31

Gen. Serial No. 31.]

1895

Encl. Letter to Sr 7

From The Superintendent of Kheddahs, Mysore

To The Inspector General of Forests and Plantations in Mysore, Bangalore

Dated 4th March '95.

Despatched 10th

Received

Enclosures No.

General No.

No. 141

Sir,

In reply to your No 2575/91 dated 11th February '95, I have the honor to report that in September 1892 all the Kunky elephants of the Kheddah Department with the newly captured ones having been brought to Mysore for Dassarah occasion, one Thimmiah of Mysore entered into contract to supply cholum

Cholum stalks at Rs 4—12—0 per thousand bundles and another Poottanna and Hanoomanthiah to supply elephant grass at Rs 1—14—0 per cart load for the feed of elephants. While the latter was supplying at the agreed rate, it appears that the former came forward and agreed before the Field Inspector to supply the elephant grass at 1—8—0 per cart load. Upon this the contract for Rs 1—14—0 has been cancelled and permission given to the former to supply at his rate. While settling his account he demanded at Rs 1—14—0 but it was refused, hence he brought a suit against this Department in the Munsiff's Court for payment at higher rate. The original court passed a decree in favour of the plaintiff and an appeal having been preferred by this department against the decree of the lower court the District Judge passed a judgment in favour of

This

this Department The plaintiff has now preferred a second appeal to the Chief Court.

It may be observed that there was no necessity to cancel the contract of Poottanna and Hanumanthia and grant the same to the plaintiff at the same rate. owing to the heavy work during Dassarah the Field Inspector seems to have failed to obtain a written —— agreement from the plaintiff. This appears to have given him room to file a suit

As I was not aware of the proceedings received in September 1888, I did not apply for previous sanction of Government before defending the Case.

I have the honor to be

Sir

your most obedient Servant

(Signed) K Chamiengar

Superintendent of Kheddahs

Mysore.

Copy.

Inspector General of Forests

		Appellant Court and Co. 56·8·4 being the 3/4 Amount of proportionate Costs of the lower Court In order to recover the costs
13	Steps taken to satisfy the final decree passed in the Case and how and when the decree is satisfied.	from the Contractor the expiration of time for Special appeal is 2 months exceeded
14	Remarks.	The Contractor completed against another person who had first agreed to supply fodder at 1·14— and obtained the Contract to supply at 1-8-0 While settling the account he demanded 1·14—0 His demand has not been admitted The Impone tenements are notorious for proving troublesome. In this Case the Field Inspector through pressure of work during Dasara for got to obtain a bond from the contractor which gave him room to bring a Suit

		Rs as ps
By acct	47-8-0	56-8-4
	75-0-0	32-14-2
	20-0-0	6-0-6
	89-8-6	
	33-1-8	
	3-9-11	
	25-7-7	

Kheoorah Supplo Office
Impone
Camb
28th November 1914

K Thimmiengar
Superintendent of
Kheoorah Impone

Memo showing the particulars as called for in Inspector General's Irv: 1305/43 dated 22nd October 1894.

1	Number of the Case	C. S. No: 129 of 1894.
2	Name of the Court in which the Suit is filed	Mysore Munsiff Court.
3	Name of the Plaintiff	Shivarmiah.
4	Name of the Defendant	Irr: K. Shamiengar
5	Particulars of the claim	The Plaintiff supplied 3649 2 Shieves of Cholum Stalk and 502 Cartloads of Jowar or Reed. The rate for the former was Rs 4-12-0 per 1000. But for the latter he claimed rate at Rs 1-14-0 per cartload instead of Rs 1-8-0 agreed upon through the Field Inspector. He had received an advance of Rs 550/- but refusing to receive payment of the balance at the agreed rate instituted a suit against the Defts. The balance of Rs 378-8-4 payable to him has already been paid into the Court
6	Date of the Suit	February 1893
7	Date & Nos: of the Proceedings Sanctioning the Prosecution or defence of the suit	Nil
8	Result of the Suit	Decreed in favor of the Plaintiff for Rs 587/- to all with a cost of Rs 81.7.7.
9	Date of the Decree.	27th November 1893
10	Whether appeal has been preferred vide so when by whom & in which Court & the No of the appeal	Yes. By this Department in District Munsiffs Court Mysore. 49 of 1894.
11	Date & No of the Proceedings of the Government Sanctioning the Prosecution or the defence of the Appeal.	Nil.
12	Result of the Appeal and the date of decree.	Decreed in favor of the Appellant (Irr. K. Shamiengar) on 13th August 1894 for Rs 387.9.2 only, making the Respondent (Plaintiff) to pay a sum of Rs 32.14.2 being the amount of Costs of the Appellant

6.48/

36

A detailed account showing the advance received from the office of Superintendent of Kedda to defend Thiruma's suit in original and Appellate courts & spent by this office towards the same.

Date on which money was received	From whom money received	Amount		Date on which money was spent	What for spent	Amount			Remarks
18.3.93	From the Superintendent Kedda	15	u	18.3.93	Stamps given to Power	u	8	u	
				7.4.93	Process	u	8	u	
					Batta	u	8	u	
				1.7.93	Process	u	8	u	
				1.8.93	Batta	1	8	u	
				1.8.93	Process	u	8	u	
					Batta	2	u	u	
				23.8.93	Process	u	8	u	
				—	Batta	2	u	u	
				23.9.93	Batta	2	u	u	
				29.9.93	Do	2	u	u	
				2.10.93	Process	u	8	u	
					Batta	2	u	u	
8.11.93	Do	2	8.	8.11.93.	Process	u	8	u	
					Batta	2	u	u	
				4.1.94	copying Fee & Stamp	4	7	8.	
18.1.94	Do	30	u	18.1.94	Stamp on appeal Memo.	16	8	u	
					Power's Stamp	u	8	u	
					Process Stamp	1	u	u	
				18.9.94	copy application Stamp	u	2	u	
				—	copying Fee original decree	u	9	6.	
					copying Fee	2	10	11.	
					Postage &c	u	8	u	
	Total Rs	47	8.						
					Total Rs.	43	14	u	
					Balance in hand	3	9	11.	

4th December 1894.

VSP

M. Krishnaswami Ayyangar
Advocate

Mysore District Judge's Court. 37.

Description of Enclosure | Amount

Appeal No 49 of 1894 On the file of the District Judge at Mysore.

Appellant. Respondent.
M.K. Shamiengar Thimmiah.
Keddah Superintendant.

My fee in conducting the above Appeal on behalf of M.K. Shamiengar, Keddah Superintendant ——— Rs 25 a

Counter-signed

M.C. Rm Chetty
Advocate for
Appellant.

District Judge. Counter-signed for Rs Twenty five only.

1.9.94 District Judge

59

(9)

Read

SECTION Jl correspondence

FILE No. 30-52 ending with letter No

SERIAL No. 8 c.156 dated 13" Feb 1896

from the Conservator of Forests in Mysore submitting copy of decree of the Chief Court and a bill for Rs. 1452-3-11 recd from the Khedda Ruppett. in re Shimania W/o M. K. Shanmugam

Order

Government note the defence in this case was considered in the first instance without the necessary view. Government regret to observe that the Khedda ought had given his personal attention to the subject matter of the case as

7606-7 d 24.2.96

No Fl. 505 26

Ver

1° on a perusal of the judgment of the Chief Court, that W Shanmugam's evidence was considered and entitled to any weight owing to his want of personal knowledge of the terms of the contract this would

that were
ed upon and

and obtained a document telling from the terms of the contract, that would have been called the cap which they mentioned. Lastly, it is noted that the costs incurred by the dept (Khedda Cutch) are same. - what mention of these mentioned in the decree of the Thirty Court.

2 - Next Mere observation - terms, that are stated & executed the Rule for No 1452 - 3 - 11 called by the Khedda Court

3 One of the answers of the Rule, a Copy of No 1312 - 15 - 11 seems to have been already filed

Under the circumstances set forth in the Govt of the Chief the defence appear to have been ill advised - The case ought to have been compromised at the outset & Mr Thompson should be warned to be more careful in future in entering into contracts connected with his dept. [illegible]

by the Sheriff
Court; & the Cedar
Rouse Remarks in
this only No 139 4.
The Commissioner
is requested to
release the
[redacted] Caravan from
possession the afore-
said Respondent
when made, as
well as the Lease
to which the
Caravan & the
Enforcement Order
139—4 → Cleared
the Allotment —

24-1-96

BM
24/1/96

To
The Commissioner
Forestry
(Compliance Section)
Mt Gambier

(10)

No 3654 Enque / 343

SECRETARIAT OF MYSORE

Office of the Conservator of
Forests in Mysore

No. 30-94

Dated, Bangalore, 1st May 1896.

SEAL No. 9.

From,

The Conservator of Forests
in Mysore.

To

The Secretary to the Government
of Mysore,
General and Revenue Department.

Sir,

In reply to para 3 of Government Proceedings No: 7606-7 / 7c-505 dated 24th February 1896, I have the honor to state that the Superintendent of Kheddahs in his letter No: 171 dated the 24th instant (copy enclosed) reports that Rs 1312-15-11 that had already been paid against Rs 1452-3-11, the amount of

of the bill sanctioned by Government was met from the Budget allotments under the Heads "V Feed of Kumkies" and "VI Feed of new elephants" and suggests that the balance of Rs 139-4-4 may also be debited to the same heads. This may be done

2. With reference to the subject-matter of this correspondence and especially the remarks made by Government in para 1 of the said Proceedings - Viz " Mr. Shamadigar should be warned to be more careful in future in entering into Contracts connected with his department", I must respectfully request Government to direct that in future the Khedda

Superintendent should make such contracts or agreements — subject to approval by Conservator or Government and keep them fully informed. Otherwise the Forest Department has to "pay the piper for expenditure incurred without any authority or through want of knowledge or tact as in this instance.

I have the honor to be

Sir,

Your most obedient servant

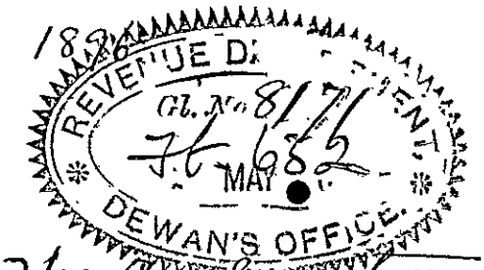
Humphreys Colonel

Conservator of Forests

Hy

Rw: Dept
2/5/96
1

Subject for order and draft Cl
4/5/96



From
The Conservator
of Forests in Mysore

To, The Secretary to the
Government of Mysore
General and Revenue
Department.

Dated 1st May 1896
No. 3654/343 En. one.
In reply to Government
Proceedings No: 7606-7/H-505 dated
24.2.96

States the source from which part of the charges of Rs 1452-3-11 referred to in the above has already been met, and the head to which the balance should be debited, and requests that the Kheddah Superintendent be directed in future to make contracts or agreements subject to the approval by the Conservator or Govt.

Gen. 31.]

1896

From The Superintendent of Kheddahs
Mysore

To The Conservator of Forests
in Mysore
Bangalore

Dated 24th
Despatched 25th April 1896

Received

General No. 171
No.

Enclosure No.

Sir,

In reply to your docket
No. 2830/95 of 11th March 1896
I have the honor to inform
you that the amount of
Rs 1312-15-11 already paid
was out of the provision
made in the Budget for
fodder and the balance
of the amount viz Rs 139-4-
may also be paid out of
that heading

I have &c

Sd/ K. Shama Iyengar

Superintendent of Khedah.

Mysore

copy

R. L. Benson

For Conservator of Forests.

GOVERNMENT OF MYSORE

(11)

SUBJECT Read Ft. Letter No. 3654/343 dated

FILE 30th May 1896, from the

SERIAL NO. 10 Conservator of Forests

in Mysore, reporting, with

reference to Govt. Order

No. 7606-7 Ft. 505 dated the 24

February 1896 that the

Sanctioned for Rs. 7736

expenditure of Rs. 1312-15-11

already incurred in Con-

-nection with the civil

suit instituted ~~against~~ by

Thimmah against the

Khedda Superintendent

was met from the budget

allotments under the

heads "V Feed of Mahouts"

and VI Feed of new elephants,

and suggesting that the

balance of Rs. 139-4-

out of the amount

sanctioned in the above

meer

may also be debited to the

same heads ~~and that the Khedda Supdt~~

Order thereon

No. 9836-37 / H:7147-95-1/9 26-5-96.

Approved

"6 The Khedda Supdt

should in future ~~be~~

~~careful in entering into~~

~~contracts connected with~~

~~his depart and should~~

make his such contracts or

agreements subject to the

approval of the Govt

or the Conservator, who

should be kept fully

informed of the terms

thereof

4/5/96

Secretary (note

4/5/96

To The Conservator of

Forests in

Mysore

The Comptroller

for the feed of Elephants

aguents in